Remarks

Claims 1-8 & 11-36 are at issue. Claims 1, 3-5, 7-13, 15-17 & 25-31 stand rejected under 35 USC 102(e) as being anticipated by Scott et al (US Pub. No. 2002/0049760). Claims 2 & 32-35 stand rejected over Scott in view of Fanning (6,742,023). Claims 6, 14 & 18-24 stand rejected over Scott in view of Schliecher et al (2002/0138744).

Claims

Claim 1 as amended requires a broadcast search query. The Examiner points to Scott paragraph 0044, however Scott states "the peer software sends the search request to the central server 502". Scott never broadcasts the search, because a key part of his invention is the hashing system used to index the peer-to-peer network which is stored on the central server. Claim 1 is clearly allowable over the prior art.

Claim 2 requires that the downloading system be the multiple concurrent downloading system. This type of downloading system is shown in FIG. 4 of the present application. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 30-49) where Fanning states that the system limits the number of concurrent download requests that are processed by the file transfer agent. A multiple current downloading system as defined in the present specification and shown in FIG. 4 is a single download request. Fanning does not show or suggest multiple concurrent downloads for a single request (single file). Claim 2 is allowable.

Claims 3-5 are allowable as being dependent upon an allowable base claim.

Claim 6 requires comparing the connection speed to the available bandwidth. The Examiner points to Schleicher paragraphs 0040, 0045 & 0046. However, these paragraphs never discuss comparing a connection speed to the available bandwidth. These paragraphs discuss determining a closest server by factors including bandwidth. This is not the same and would not meet the purposes of the present application of determining which download system to select. Claim 6 is allowable.

Claims 7-8 & 11-14 are allowable as being dependent upon an allowable base claim.

Claim 15 requires a broadcast search query. The Examiner points to Scott paragraph 0044, however Scott states "the peer software sends the search request to the central server 502". Scott never broadcasts the search, because a key part of his invention is the hashing system used to index the peer-to-peer network which is stored on the central server. Claim 15 is clearly allowable over the prior art.

Claims 16-17, 22 & 24 are allowable as being dependent upon an allowable base claim.

Claim 18 requires comparing the connection speed to the available bandwidth. The Examiner points to Schleicher paragraphs 0040, 0045 & 0046. However, these paragraphs never discuss comparing a connection speed to the available bandwidth. These paragraphs discuss determining a closest server by factors including bandwidth. This is not the same and would not meet the purposes of the present application of determining which download system to select. Claim 18 is allowable.

Claim 19 requires determining if the connection speed is less than the available bandwidth. The Examiner points to Schleicher paragraphs 0040, 0045 & 0046. However, these paragraphs never discuss comparing a connection speed to the available bandwidth. These paragraphs discuss determining a closest server by factors including bandwidth. This is not the same and would not meet the purposes of the present application of determining which download system to select. Claim 19 is allowable.

Claims 20 & 21 require determining that the connection speed is not less than the available bandwidth. The Examiner points to Schleicher paragraphs 0040, 0045 & 0046. However, these paragraphs never discuss comparing a connection speed to the available bandwidth. These paragraphs discuss determining a closest server by factors including bandwidth. This is not the same and would not meet the purposes of the present application of determining which download system to select. Claims 20 & 21 are allowable.

Claim 23 requires two or more servers start downloading the whole file simultaneously. This type of downloading system is shown in FIG. 4 of the present

application. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 30-49) where Fanning states that the system limits the number of concurrent download requests being processed by the file transfer agent. A multiple current downloading system as defined in the present specification and shown in FIG. 4 is a single download request. Fanning does not show or suggest multiple concurrent downloads for a single request (single file). Claim 23 is allowable.

Claim 25 as amended requires a broadcast search query. The Examiner points to Scott paragraph 0044, however Scott states "the peer software sends the search request to the central server 502". Scott never broadcasts the search, because a key part of his invention is the hashing system used to index the peer-to-peer network which is stored on the central server. Claim 25 is clearly allowable over the prior art.

Claims 26-29, 31 & 35 are allowable as being dependent upon an allowable base claim.

Claim 30 requires determining if the available bandwidth is two times less than the connection speed. The Examiner points to Scott paragraph 46. However, this paragraph never discusses comparing a connection speed to the available bandwidth. This paragraph discusses using heuristics for picking a peer server, but not comparing a connection speed to the available bandwidth. This is not the same and would not meet the purposes of the present application of determining which download system to select. Claim 30 is allowable.

Claim 32 requires determining if the available bandwidth is two times less than the connection speed. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 3-0-49). Which never discusses if the available bandwidth is two times less than the connection speed. Claim 32 is allowable.

Claim 33 requires that the downloading system be the multiple concurrent downloading system. This type of downloading system is shown in FIG. 4 of the present application. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 30-49) where Fanning states that the system limits the number of concurrent download requests being processed by the file transfer agent. A multiple current downloading system as defined in the present specification and shown in FIG. 4 is a single download

request. Fanning does not show or suggest multiple concurrent downloads for a single request (single file). Claim 33 is allowable.

Claim 34 requires determining if the available bandwidth is two times less than the connection speed. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 3-0-49). Which never discusses if the available bandwidth is two times less than the connection speed. Claim 34 is allowable.

Claim 36 requires determining if the available bandwidth is two times less than the connection speed. The Examiner points to Fanning (Col. 9, lines 5-14 & Col. 11, lines 3-0-49). Which never discusses if the available bandwidth is two times less than the connection speed. Claim 36 is allowable.

The application is now in condition for allowance.

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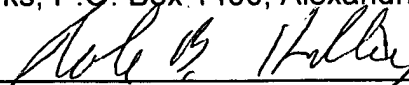655 Southpointe, Ste 100
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I hereby certify that a _____ Response _____ is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450, on:

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